

Message Text

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ACTION EUR-12

INFO OCT-01 ISO-00 CIAE-00 DODE-00 PM-05 H-01 INR-10
L-03 NSAE-00 NSC-05 PA-01 SP-02 SS-15 ICA-11
HA-05 IO-13 EB-08 OMB-01 TRSE-00 SIL-01 LAB-04
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-----110354 130128Z /63

R 121859Z APR 78
FM AMEMBASSY MADRID
TO SECSTATE WASHDC 4199
INFO AMEMBASSY BONN
AMEMBASSY BRUSSELS
AMEMBASSY LISBON
AMEMBASSY LONDON
AMEMBASSY OSLO
AMEMBASSY PARIS
AMEMBASSY THE HAGUE
USMISSION USNATO

C O N F I D E N T I A L SECTION 01 OF 03 MADRID 03924

BRUSSELS ALSO FOR USEEC

E.O. 11652: XGDS-1
TAGS: PINT, SP
SUBJECT: THE CONSTITUTION

REF: MADRID 3333; 2976

1. SUMMARY: THE CONSTITUTIONAL SUBCOMMITTEE FORMALLY
SIGNED ITS FINAL REPORT ON APRIL 10, SETTING IN TRAIN
FULL COMMITTEE CONSIDERATION OF THE DRAFT, WHICH SHOULD
BEGIN IN EARLY MAY. END SUMMARY.

2. THE 7 MEMBERS OF THE CONSTITUTIONAL SUBCOMMITTEE
ON APRIL 10 FORMALLY COMPLETED THEIR WORK BY PUBLICLY
SIGNING THEIR FINAL REPORT, WHICH INCLUDES THE DRAFT
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CONSTITUTION, TOGETHER WITH PROPOSED AMENDMENTS, "VOTOS
PARTICULARES," AND OTHER COMMENTS. PSOE SUBCOMMITTEE
MEMBER PECES-BARBA AS A SYMBOLIC GESTURE JOINED IN
SIGNING THE DOCUMENT, ALTHOUGH HE STATED THAT HIS
SIGNATURE "RATIFIED THE WORK ACCOMPLISHED DURING HIS
PRESENCE," BUT CONSTITUTED NEITHER HIS REINCORPORATION
IN THE SUBCOMMITTEE NOR ANY CHANGE IN HIS PARTY'S

OPPOSITION TO THE DRAFT ARTICLES ON RECOGNITION OF
THE CATHOLIC CHURCH, STATE AID TO CHURCH SCHOOLS,
AND THE EMPLOYERS' RIGHT TO THE LOCK-OUT.

3. DEBATE ON THE DRAFT WILL NOW SHIFT TO THE FULL
36-MEMBER CONSTITUTIONAL COMMITTEE, WHERE CONSIDERATION
SHOULD BEGIN IN EARLY MAY. UCD SUBCOMMITTEE MEMBER
HERRERO DE MINON TOLD US APRIL 11 THAT HE FEARED
EXTREMELY DRAWN OUT AND DIFFICULT DEBATE ON THE MORE
CONTROVERSIAL ARTICLES. PART OF THE PROBLEM, HE SAID,
WAS THAT THOSE DEBATING THE DRAFT REALLY DID NOT HAVE
THE POWER TO MAKE FINAL DECISIONS. WHAT WAS NEEDED,
THEN, WAS A "SUMMIT" BETWEEN SUAREZ AND GONZALEZ,
PROPERLY COUNSELED BY CONSTITUTIONAL EXPERTS, TO
REESTABLISH THE NECESSARY CONSENSUS ON THE MOST
DIVISIVE ARTICLES.

4. HIS OWN PROPOSAL, HERRERO CONTINUED, AND ONE WHICH
HE WOULD MAKE IN COMMITTEE, WAS THAT THE SPECIFIC
WORDING TO WHICH THE PSOE OBJECTED IN THE ARTICLES
IN QUESTION (SEE REFTELS) BE FOLDED INTO A BROAD-
GAUGED MOVE TO EXCISE WHOLE SECTIONS OF THE DRAFT WHICH
DEALT ALL TOO EXPLICITLY WITH INDIVIDUAL AND COLLECTIVE
RIGHTS (PRINCIPALLY TITLE II). IN HIS VIEW, THE PSOE
HAD LARGELY CREATED THE PROBLEM BY INSISTING ON AN
ALMOST INTERMINABLE ELABORATION OF BASIC R
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THIS HAD FORCED UCD TO RESPOND BY INCLUDING THOSE RIGHTS OF GREATEST IMPORTANCE TO ITS OWN CONSTITUENCY. FOR EXAMPLE, WHEN THE PSOE INSISTED ON DETAILED TREATMENT OF LABOR RIGHTS, UCD HAD TO RESPOND BY ENUMERATING SIMILAR RIGHTS FOR EMPLOYERS, INCLUDING, IMPLICITLY, THE LOCK-OUT (UNDER THE RIGHT OF EMPLOYERS TO "ADOPT MEASURES OF COLLECTIVE CONFLICT"). FROM HERRERO'S POINT OF VIEW, THE AIM OBVIOUSLY SHOULD BE TO TAKE THESE DETAILS, WHICH CREATED MORE PROBLEMS THAN THEY SOLVED, OUT OF THE CONSTITUTION, AND TO LEAVE THEM FOR ORDINARY LEGISLATION TO DEAL WITH.

5. HERRERO WAS PARTICULARLY CONCERNED ABOUT THE CONFRONTATIONAL POSITION THE PSOE HAD ADOPTED ON SOME CONFIDENTIAL

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ARTICLES. IN THE CASE OF THE EMPLOYERS' RIGHT TO THE LOCK-OUT, FOR INSTANCE, HE SAID THE PSOE HAD NOW COUNTERED WITH THE INSISTENCE THAT THE CONSTITUTION ALSO RECOGNIZE WORKERS' RIGHTS TO COLLECTIVE ACTION IN ADDITION TO THE STRIKE, INCLUDING THE SLOW-DOWN "AND EVEN SABOTAGE." THE SOCIALISTS WERE BEING EQUALLY DIFFICULT ON THE EDUCATION QUESTION, HE ADDED, AND THUS FAR WERE NOT BUDGING ON RECOGNITION OF THE CHURCH EITHER.

6. IN ANY EVENT, HERRERO CONCLUDED, THE PSOE HAD TO REALIZE THAT A CONSENSUS WAS IMPOSSIBLE UNLESS BOTH SIDES GAVE A LITTLE, AND IT WAS ALMOST IMPOSSIBLE FOR UCD TO COMPROMISE ON THESE ARTICLES WITHOUT CORRESPONDING MOVEMENT ON THE PSOE'S SIDE. (WE NOTE THAT PSOE EXECUTIVE COMMITTEE MEMBER LUIS GOMEZ LLORENTE RECENTLY MADE ALMOST IDENTICAL STATEMENT TO US, OF COURSE REVERSING THE ROLES OF THE TWO PARTIES.) AT BEST, HERRERO BELIEVED CONSIDERATION OF THE CONSTITUTION WOULD RUN INTO THE SUMMER, WITH THE REFERENDUM IN SEPTEMBER OR OCTOBER. BUT IF SOME BROAD TRADE-OFF COULD NOT BE WORKED OUT, HE FEARED THAT DEBATE COULD

EVEN DRAG ON INTO 1979.

7. COMMENT: HERRERO QUALIFIED HIS OWN REMARKS BY POINTING OUT THAT HIS WAS A RELATIVELY NARROW VIEW, SINCE HE HAD BEEN COMPLETELY IMMERSSED IN THE CONSTITUTION FOR THE LAST SEVEN MONTHS. WE BELIEVE HE IS INDEED BEING UNDULY -- OR AT LEAST PREMATURELY -- PESSIMISTIC. WITHOUT UNDERESTIMATING THE DIFERENCES THAT DIVIDE UCD AND THE SOCIALISTS ON THE ARTICLES IN QUESTION -- THEY ARE, AFTER ALL, ISSUES THAT HAVE DIVIDED SPANIARDS FOR GENERATIONS -- IT ALSO REMAINS TRUE THAT A CONSTITUTIONAL CONSENSUS IS MORE IMPORTANT
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TO BOTH SIDES THAN IS COMPLETE SATISFACTION WITH ONE OR ALL OF THE ARTICLES IN QUESTION.

8. ALMOST ONE MONTH REMAINS BEFORE FULL COMMITTEE CONSIDERATION OF THE DRAFT EVEN BEGINS; CONSEQUENTLY, THERE APPEARS TO BE MORE THAN SUFFICIENT TIME FOR ALL SIDES TO CONSIDER POSSIBLE COMPROMISE SOLUTIONS. IN THIS REGARD, WE UNDERSTAND THAT PECES-BARBA MET

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C O N F I D E N T I A L SECTION 03 OF 03 MADRID 03924

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PRIVATELY APRIL 11 WITH EDUCATION MINISTER CAVERO TO
BEGIN TO TRY TO HAMMER OUT MUTUALLY AGREED WORDING ON
THE EDUCATION PROVISION. ARRIVING AT SUCH COMPROMISE
FORMULATIONS ON THIS AND THE OTHER MOST CONTROVERSIAL
ARTICLES WILL BE NO EASY TASK, BUT THE PECES-BARBA-
CAVERO MEETING DEMONSTRATES THAT THE WILL CONTINUES
TO EXIST TO ARRIVE AT A FINAL CONSENSUS. AND IF
WORDING CANNOT BE FINE-TUNED SUFFICIENTLY, HERRERO
DE MINON'S FORMULA FOR COMPENSATORY DELETIONS MAY ALSO
BE THE WAY OUT OF DIFFICULTIES ON THESE ISSUES.
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